

Board Members

Maryann Santos de Barona, Ph.D.
Chairperson
James J. Cox, Ed.D.
Vice-Chairperson
Joseph C. Donaldson
Secretary
Wil R. Counts, Ph.D.
Gary D. Lovejoy, Ph.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.
Vacant – Public Member



State of Arizona Board of Psychologist Examiners

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Staff

Maxine McCarthy
Executive Director

Marcus E. Harvey
Deputy Director

David S. Shapiro
Investigator

Shari S. Courtney
Administrative
Assistant

REGULAR SESSION MINUTES

Friday, April 1, 2005

1400 West Washington
Basement Conference Room, #B-1
Phoenix, AZ 85007

1. CALL TO ORDER

The regular session of the Arizona State Board of Psychologist Examiners was called to order by Chairperson Santos de Barona at 8:30 a.m. on Friday, April 1, 2005. One Executive Session was held on Friday from 11:13 a.m. to 11:23 a.m. for the purpose of obtaining confidential legal advice from the Board's attorney.

2. ROLL CALL

Board Members Present

Maryann Santos de Barona, Ph.D. - Chairperson
James J. Cox, Ed.D. - Vice-Chairperson¹
Joseph C. Donaldson - Secretary
Gary D. Lovejoy, Ph.D.
Miki Paul, Ph.D.
Byron N. Rimm
Michael J. Rohrbaugh, Ph.D.

Board Members Absent²

Wil R. Counts, Ph.D.

Staff Present

Maxine McCarthy, Executive Director
Marcus Harvey, Deputy Director
David Shapiro, Investigator
Shari Courtney, Administrative Assistant

Attorney General's Office

Nancy J. Beck, J.D.
Assistant Attorney General

Solicitor General's Office³

Victoria Mangiapane, J.D.
Assistant Attorney General

3. REMARKS/ANNOUNCEMENTS

Dr. Santos de Barona announced that documentation was available for licensees who wished to receive continuing education credit for attending Board meetings and explained the procedures for documenting the attendance. She also stated that anyone was welcome to complete a Board meeting assessment survey.

¹ Dr. Cox was present until 6:50 p.m.

² There was currently a vacancy on the Board for a public member position.

³ Ms. Mangiapane was present only for Item No. 7.

4. APPROVAL OF MINUTES

- **Regular Session – February 4, 2005**

A motion was made by Dr. Cox, seconded by Mr. Rimm, and carried (6-0-1), with Dr. Rohrbaugh abstaining from the vote, to approve the February 4, 2005 Regular Session minutes.

- **Conference Call Regular Session – March 4, 2005**

A motion was made by Dr. Cox, seconded by Dr. Paul, and unanimously carried (7-0), to approve the March 4, 2005 Conference Call Regular Session minutes.

- **Conference Call Regular Session – March 16, 2005**

A motion was then made by Dr. Lovejoy, seconded by Dr. Rohrbaugh, and carried (4-0-3), with Dr. Paul, Mr. Rimm and Mr. Donaldson abstaining from the vote, to approve the March 16, 2005 Conference Call Regular Session minutes.

5. CALL TO THE PUBLIC

Chairperson Santos de Barona gave the public the opportunity to address the Board at this time.

- John Burger made statement to the Board on behalf of Joseph Tursini, Ph.D. regarding case No. 04-50.
- David Rich made a statement to the Board regarding Joseph Tursini, Ph.D. and case No. 04-50.
- S.R. addressed the Board regarding the Joseph Tursini, Ph.D. and case No. 04-50.
- J.B. addressed the Board regarding her complaint against Ellen Diana, Ph.D., No. 05-51
- Sandra Tursini made a statement to the Board on behalf of Joseph Tursini, Ph.D. regarding case No. 04-50.

6. INFORMAL INTERVIEW – MARILYN KIEFFER-ANDREWS, Ph.D. – No. 03-39

Dr. Santos de Barona explained that it was the time and place for the informal interview of Marilyn Kieffer-Andrews, Ph.D. Dr. Kieffer-Andrews was present with her attorney Larry Cohen, J.D., who introduced themselves, as did Board members and Staff. Ms. Beck was also present as legal counsel for the Board. Mr. Shapiro summarized the allegations for the Board. Dr. Kieffer-Andrews was sworn in by the court reporter, whose transcript shall serve as the official record of the proceedings. Dr. Santos de Barona explained the procedures for the informal interview and Board members proceeded to interview Dr. Kieffer-Andrews. Dr. Kieffer-Andrews then made a statement to the Board after which Board members proceeded to deliberate. Dr. Santos de Barona made a motion, seconded by Dr. Lovejoy, and unanimously carried (7-0), to move into Executive Session for the purpose of obtaining confidential legal advice from the Board's attorney.

Upon return to open session, Board members resumed deliberations. Ms. Beck informed the Board that she had drafted findings of fact and conclusions of law based on the Board's previous discussion of this case. Dr. Lovejoy made a motion, seconded by Dr. Rohrbaugh and unanimously carried (7-0), to adopt the draft conclusions of law as modified by the discussion. A motion was then made by Dr. Paul, seconded by Dr. Cox, and carried (5-2) with Drs. Lovejoy and Rohrbaugh voting no, to include draft conclusion of law number three. Board members then reviewed the draft findings of fact. Dr. Lovejoy made a motion, seconded by Dr. Paul and unanimously carried (7-0), to adopt the draft findings of fact as modified by the discussion. Board members then proceeded to discuss the terms of a disciplinary order. Dr. Lovejoy made a motion, seconded by Dr. Rohrbaugh, and carried (6-0-1) with Dr. Cox voting no, to require that Dr. Kieffer-Andrews be placed on probation for three years during which time she must complete graduate level coursework in suicide assessment and chemical dependence and have practice supervision. She would be further restricted from providing psychological services to anyone under the age of 18 years unless approved by her supervisor.

7. HEARING ON DENIAL OF LICENSE APPLICATION – TELFORD MOORE, Ph.D.

Dr. Santos de Barona explained that it was the time and place for the hearing on denial of license application of Telford Moore, Ph.D. Dr. Moore was present and introduced himself, as did Board members and Staff. Ms. Beck was present representing the State and Victoria Mangiapane, J.D. of the Solicitor General's Office was present as legal counsel for the Board. Dr. Santos de Barona explained the procedures for the hearing. Dr. Moore was sworn in by the court reporter, whose transcript shall serve as the official record of the proceedings. Dr. Moore made an opening statement to the Board, followed by an opening statement from Ms. Beck. Dr. Moore then gave testimony to the Board after which Ms. Beck cross-examined Dr. Moore and made two stipulations regarding the Board's denial order. Board members then proceeded to question Dr. Moore. Ms. Beck made her closing argument followed by Dr. Moore's closing argument. Board members then proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Paul, and unanimously carried (7-0), to affirm the order on denial of license, deleting lines 22-28 regarding the National Register of Health Service Providers in Psychology, and question number 17 on page two. Dr. Moore then made a concluding statement to the Board.

8. CASE DISCUSSION/DECISION

a) David Jecmen, Ph.D. – No. 04-46

Dr. Lovejoy stated that he has a collegial referral relationship with Dr. Jecmen and had served on committees with him in a professional association but did not feel that would bias his participation in this case. Mr. Shapiro summarized the allegations for the Board after which Board members proceeded to deliberate. Dr. Paul made a motion, seconded by Dr. Rohrbaugh, and carried (6-1) with Dr. Lovejoy voting no, to issue a letter of concern expressing the Board's concerns that he:

- Exceeded his scope of providing treatment for the mother by offering an opinion about the custody arrangements for the children;
- Failed to provide the client a psychotherapist-patient services agreement to spell out his policies;
- Failed to include all of his billing services on the form entitled "Medical Record of Psychotherapy Session"; and
- Allowed the client's balance to go unpaid for several months.

b) Cheryl Karp, Ph.D. – No. 04-49

Mr. Shapiro summarized the allegations for the Board. The Complainant was present and made a statement to the Board. Daniel Kaplan, attorney for Dr. Karp, then addressed the Board. Board members then proceeded to deliberate, after which a motion was made by Dr. Lovejoy and seconded by Dr. Rohrbaugh, which failed (1-5-1) with Dr. Lovejoy voting yes and Dr. Santos de Barona abstaining from the vote, to dismiss the complaint. Dr. Paul then made a motion, seconded by Mr. Donaldson, which carried (6-1) with Dr. Lovejoy voting no, to invite Dr. Karp to an informal interview to address allegations that she may have violated A.R.S. 32-2061(A)(13)(o) in that she:

- May have created the impression of rendering a diagnosis when, in fact, she did not evaluate W.K.;
- Conducted a psychological evaluation of T.C. and a propensity evaluation of W.K. that may have created a dual relationship in which her objectivity was compromised in providing the second service;
- Failed to provide evidence to establish a foundation that T.C. had recovered repressed memories of childhood sexual abuse by not taking into account current scientific evidence regarding repressed memories;
- Failed to guard against the client taking the MMPI home and she then scored the invalid test.

A reasonable and prudent psychologist would not have created the impression of rendering a diagnosis without evaluating W.K.; would have offered testimony on T.C. only; would have provided scientific evidence regarding repressed memories to establish a foundation that T.C. had recovered repressed memories of childhood sexual abuse; would have insured that the test did not leave the office; and would not have scored the invalid test.

c) Joseph Tursini, Ph.D. – No. 04-50

Mr. Shapiro summarized the allegations and Board members proceeded to deliberate. Dr. Lovejoy disclosed that he formerly had Dr. Tursini as a secondary supervisor several years ago and a referral relationship with him, but that it would not bias his ability to participate in this case. Dr. Joseph Tursini was present and made a statement to the Board after which Board members proceeded to deliberate. A motion was made by Dr. Paul to invite Dr. Tursini to an informal interview which failed for lack of a second. A motion was then made by Dr. Rohrbaugh, seconded by Dr. Lovejoy, and carried (4-3) with Drs. Paul and Cox and Mr. Rimm voting no, to dismiss the case because it was without merit.

d) Gloria Malone, Ph.D. – No. 04-53

Mr. Shapiro summarized the allegations for the Board. Dr. Gloria Malone was present and made a statement to the Board. After some discussion, Dr. Lovejoy made a motion, seconded by Mr. Rimm and unanimously carried (7-0), to dismiss the case because it was without merit.

e) Lawrence Allen, Ph.D. – No. 04-54

Mr. Shapiro summarized the allegations for the Board. The Complainant was present and made a statement to the Board, as did Dr. Lawrence Allen. Board members then proceeded to deliberate. Dr. Lovejoy made a motion, seconded by Mr. Donaldson and carried (6-1) with Dr. Paul voting no, to dismiss the case because it was without merit.

f) Ellen Diana, Ph.D. – No. 05-01

Mr. Shapiro summarized the allegations for the Board. Eric Bistrow, attorney for Dr. Ellen Diana, made a statement to the Board after which Board members proceeded to deliberate. Dr. Santos de Barona then made a motion, seconded by Dr. Cox, and carried (6-1) with Dr. Lovejoy voting no, to issue a letter of concern to Dr. Diana stating that her actions in this matter may have inflamed an already highly conflictual situation between the parents.

g) Anne Middaugh, Ph.D. – No. 05-04

Mr. Shapiro summarized the allegations for the Board. Dr. Anne Middaugh was present and made a statement to the Board after which Board members proceeded to deliberate. Mr. Donaldson made a motion, seconded by Dr. Lovejoy, and carried (4-3) with Drs. Cox and Paul and Mr. Rimm voting no, to dismiss the case because it was without merit.

9. COUNSEL REPORTS

• Litigation – Discussion/Decision Regarding:

- ❖ **Kalas v. Board – CV2004-0200** – Ms. Beck reported that this case was in the United States District Court for the district of Arizona. She reminded the Board that Dr. Kalas first sued the Board in superior court in Coconino County regarding a letter of concern. Ms. Beck had the case removed to federal court because Dr. Kalas made claim under the United States Constitution that the Board infringed her First Amendment rights, and asked for relief under the federal civil rights statutes. Ms. Beck asked the federal court to dismiss that constitutional claim and the court did so. The Board and Ms. McCarthy were both defendants in this case, Ms. Beck stated, and the Board was dismissed as a defendant because the legislature did not give the Board the entity status allowing it to be sued in this kind of a suit. There were two other claims under Arizona law that were been remanded to the superior court of Coconino County which will be handled in the ordinary course of business.

- ❖ **Stapert v. Board – LC2003-00640-001DT** – Finally, Ms. Beck reminded Board members that Dr. Stapert was disciplined and that he filed a late motion for rehearing or review. The Board declined to consider it because it was late. The superior court and the court of appeals also affirmed that. This was an important decision, Ms. Beck noted, because as a published opinion, it is in the law books, as opposed to a memorandum decision and can be cited as legal precedent in litigation. The case also made an important point in administrative law, Ms. Beck stated, which is that a regulatory board cannot make up a “good cause exception” to what the law says. Dr. Stapert now has the right to request that the Arizona Supreme Court review the decision.

10. EXECUTIVE DIRECTOR’S REPORT

Financial – Maxine McCarthy, Executive Director, reported that at the end of February, which was eight months into the fiscal year, the Board had spent only 54% of its appropriation. She stated that she did expect that there would be a large expenditure from the professional services line to pay for expert witness and consultant fees and to the Office of Administrative Hearings because a formal hearing was scheduled for May.

Ms. McCarthy then stated that regarding the budget for 2006 and 2007 was submitted to the Governor’s Office, it appeared that the Board would be appropriated an amount very close to what was requested, however negotiations were still going on since the Governor vetoed the budget.

Finally, Ms. McCarthy informed the Board that from then through the end of April, the Staff would be continuing to process license renewal applications. Additionally, the Department of Administration was currently in the process of conducting a financial audit of the Board, which was keeping Staff very busy lately.

11. LICENSING REPORT

- **New Licenses Issued** – Mr. Harvey reported that the Board had licensed the following 10 psychologists since the February 4, 2005 meeting, two of them by credential:

3698	Julia Ramos-Grenier, Ph.D.	3703	Christina Katen, Psy.D.
3699	Michael Worsley, Psy.D.	3704	Virginia Bell-Pringle, Ph.D.
3700	Cristy Lopez, Ph.D.	3705	Kimberly Montag, Ph.D.
3701	Janice Motoike, Ph.D.	3706	Amber Adkins, Ph.D.
3702	Andrew Erlich, Ph.D.	3707	Christen Iannone, Psy.D.

Mr. Harvey reported that the Board had issued 17 new licenses this year, which compared to 15 issued by this time last year.

- **EPPP Results** – Mr. Harvey then reported that the following four applicants had passed the Examination for Professional Practice in Psychology in January and February, with one failing:

Pass

Amber Adkins, Ph.D.
Christina Katen, Psy.D.
Cristy Lopez, Ph.D.
Janice Motoike, Ph.D.

Fail

Raymond Branton, Psy.D.

- **New Applications** – Finally, Mr. Harvey stated that the Board had received 13 new applications over the past two months and that the Board had received a total of 19 license applications this year, which compared to 16 applications received by this time last year.

12. DISCUSSION/DECISION REGARDING APPLICATIONS

➤ REQUEST FOR EXAMINATION

Dr. Paul made a motion, seconded by Dr. Lovejoy, and unanimously carried (6-0-1) with Dr. Cox not present for the vote, that the following applicants, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Professional Practice in Psychology (EPPP), and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee:

- **Beat Bisenz, Ph.D.**
- **Patti Taylor, Ed.D.**
- **Jeffrey Zabel, Ph.D.**

Dr. Paul explained that the Applications Review Committee was divided on whether applicants who listed insufficient coursework in a given core program area should be required to provide alternative coursework or whether the Committee itself could count other coursework on an applicant's transcript that would meet the requirement. It was the consensus of the Board that the Applications Review Committee itself may substitute courses not listed by the applicant if the Committee agrees that a particular course that was taken by the applicant would meet a given core program area requirement.

Thereupon Dr. Paul then made a motion, seconded by Dr. Lovejoy, and unanimously carried (6-0-1) with Dr. Cox not present for the vote, that **Norine Ashley, Psy.D.**, having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, be approved to sit for the Examination for Professional Practice in Psychology (EPPP), and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee.

➤ REQUESTS FOR LICENSURE BY CREDENTIAL

Dr. Paul made a motion, seconded by Dr. Lovejoy, and unanimously carried (6-0-1) with Dr. Cox absent, that **Martin Shinedling, Ph.D.**, while having met the requirements of A.R.S. § 32-2071 and A.A.C. R4-26-203, but lacking an exam score that equals or exceeds the passing score recommended by the ASPPB on the date the examination was taken, be approved to sit for the EPPP, and for licensure upon receipt of a passing score on the Examination, and payment of the pro-rated original license fee.

➤ RATIFICATION OF LICENSE ISSUED BY CREDENTIAL

Dr. Paul then made a motion, seconded by Dr. Lovejoy, and unanimously carried (6-0-1) with Dr. Cox absent, to ratify the issuance of licensure by credential **Andrew Erlich, Ph.D.**, who had met the requirements of A.R.S. § 32-2071.01 by means of his Certificate of Professional Qualification in Psychology.

Finally, Dr. Paul announced that the following applications remained ongoing:

David Davidson-Methot, Ph.D.
Christina Hibbert, Psy.D.
Elizabeth Sikora, Ph.D.
Michael Tilus, Psy.D.
Kimi Wright, Ed.D.

Dr. Paul thanked Dr. Lovejoy and Mr. Harvey for their work on the Committee.

13. DISCUSSION/DECISION REGARDING REQUEST FOR MEDICAL INACTIVE STATUS

After some discussion, Dr. Paul made a motion, seconded by Dr. Cox, and unanimously carried (7-0), to approve the following licensees for medical inactive status:

- **Freda Harper, Psy.D.**

- **Shari Just, Ph.D.**

14. ADJOURNMENT

There being no further business to come before the Board, a motion was made by Dr. Lovejoy, seconded by Dr. Paul, and unanimously carried (6-0-1) with Dr. Cox absent, to adjourn the meeting at 7:13 p.m.

Prepared by:

**Marcus Harvey
Deputy Director**

Respectfully submitted,

**/s/ Joseph C. Donaldson
Secretary**